

III. Claims 36 and 37, drawn to a method of the using the product, classified in class 424, subclass 520.

The Restriction Requirement also stated that the Claims were directed to patentably distinct species. Specifically, election of a species for the "cryoprotectant" and "additional component" recited in Claim 12 for prosecution on the merits was requested. The Examiner stated that Claim 1 was generic.

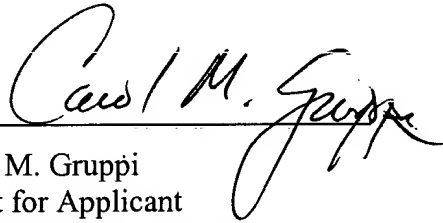
In a response filed on April 12, 2000, Applicant elected the Claims of Group I for prosecution on the merits but did not elect a species for the "cryoprotectant" and "additional component" recited in Claim 12. Applicant provisionally elects glycerol (Claim 14) as a species for the cryoprotectant. As a species for the additional component, Applicant provisionally elects a component that maintains osmolality and buffers pH (Claim 12), such as a buffer comprising a salt (Claim 15). The claims readable on these species are 1-26 and 35. Applicants, however, traverse the the election of species for the reasons presented below.

A Restriction Requirement requires the inventions be independent or distinct as claimed, and there must be a serious burden on the Examiner for restriction to be required (*see* MPEP § 803). Ten independent and distinct nucleotide sequences have been determined to be a "reasonable number" of sequences to be claimed and examined in a single application without restriction (*see* MPEP § 803.04). Thus, examination of ten independent and distinct nucleotide sequences has been determined not constitute an undue burden for the Examiner (*see* MPEP § 803.04).

Likewise, Applicants submit that it would not be unduly burdensome for the Examiner to search for more than one additional component or more than one cryoprotectant. Accordingly, reconsideration of the election of species is respectfully requested. If Examiner has any questions concerning this Response, the Examiner is respectfully requested to telephone Applicant's agent at the telephone number given below.

A fee of \$695.00 is due under 37 C.F.R. § 1.16 and § 1.17 for the Petition for a
an Extension of Time filed concurrently herewith. The Assistant Commissioner is hereby
authorized to charge any additional fees which may be required by this paper, or credit any
overpayment to Deposit Account No. 50-1189. Docket No.: 22091-701CON1. A DUPLICATE
COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,

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